

CALENDAR ITEM

C58

A 72

04/20/17

S 34

PRC 7304.1

S. Avila

CORRECTION AND AMENDMENT OF LEASE

LESSEE:

Portofino Cove Yacht Association, a California Non-Profit Mutual Benefit Corporation

AREA, LAND TYPE, AND LOCATION:

2.07 acres, more or less, of sovereign land in the Main and Bolsa Chica Channels of Huntington Harbour, adjacent to 16291 Countess Drive, city of Huntington Beach, Orange County.

AUTHORIZED USE:

Use and maintenance of a 47-slip marina with forty-four 18-inch-diameter reinforced concrete pilings, two gangways, 47 dock boxes, lighting, water and electrical utilities, a protected eelgrass bed, an emergency mooring line/barrier with buoys, and maintenance dredging not to exceed 14,000 cubic yards per year.

LEASE TERM:

20 years, beginning May 1, 2015.

CONSIDERATION:

Marina: Annual rent in the amount of \$31,709 with an annual Consumer Price Index adjustment and the State reserving the right to fix a different rent per terms of the lease.

Dredge and Protected Eelgrass Areas: The public use and benefit with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

PROPOSED CORRECTION:

Correct the lease area previously authorized by the Commission from 2.07 acres to 2.58 acres.

CALENDAR ITEM NO. **C58** (CONT'D)

PROPOSED AMENDMENT:

- 1) Amend the lease to temporarily include an additional 0.16 acre (6,852 square feet) to the lease area adjacent to Dock C at the Portofino Cove Marina for a one-time maintenance dredging. The area in this site (Parcel 2) will be eliminated from the lease area immediately upon completion of the dredging operation.
- 2) Amend the lease to replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only).

All other terms and conditions of the lease shall remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6303, and 6501.1; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and the State's Best Interests Analysis:

In 2015, the Commission authorized a 20-year General Lease – Other, to Portofino Cove Yacht Association, A California Non-Profit Mutual Benefit Corporation, beginning May 5, 2015, for a 47-slip marina with forty-four 18-inch-diameter reinforced concrete pilings, two gangways, 47 dock boxes, lighting, water and electrical utilities, a protected eelgrass bed, an emergency mooring line/barrier with buoys, and maintenance dredging not to exceed 14,000 cubic yards per year ([Calendar Item C82, April 23, 2015](#)). That lease will expire on April 30, 2035.

The proposed amendment would expand the lease area of the marina by an additional 0.16 acre (6,852 square feet) to accommodate one-time maintenance dredging. The marina is maintained and operated by the lessee to provide a safe environment for homeowners association boaters. The lease area includes an emergency mooring line for the safety of the general public and a protected eelgrass mitigation area.

The lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. The lease also requires the lessee to obtain and submit all necessary dredging

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permits and to conduct an eelgrass survey 30 days prior to the start of dredging.

Climate Change:

Climate change impacts, including sea-level rise, are not limited to the open coast and may involve increased wave activity, storm events, and flooding. The existing structures subject to the proposed lease amendment are located within the Huntington Harbour development, along an inland, navigable, tidally-influenced channel, and may be vulnerable to the impacts of sea-level rise. Huntington Harbour is built near sea-level elevation, and as a result is vulnerable to flooding and storm surge events. Huntington Harbour is adjacent to two wetlands, Bolsa Chica and the Seal Beach National Wildlife Refuge, which could act as natural buffers to storm surges and lessen flood risks. Compared to year 2000 levels, the region could see up to 1 foot of sea-level rise by the year 2030, 2 feet by 2050, and possibly over 5 feet by 2100 (National Research Council 2012). As stated in *Safeguarding California* (California Natural Resources Agency 2014), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms (especially when coupled with sea-level rise).

The combination of these conditions will likely result in increased wave run up, storm surge, and flooding in coastal and near coastal areas. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. Beaches, coastal landscapes, and near-coastal riverine areas will be exposed to increased wave force and run up, potentially resulting in greater beach or bank erosion than previously experienced.

This increase in sea level combined with more frequent and stronger storm events will likely expose the lease area structures to higher flood risks, comprised of greater total water levels for longer periods of time. Flooding conditions could cause structures to be damaged or dislodged, presenting hazards to public safety as well as dangers for navigation within the channel.

The floating nature of the gangways, emergency mooring line/barrier with buoys, and ancillary facilities (dock boxes, lighting, water, and electrical utilities) on the floating gangways will allow such facilities to rise and fall with tides and waves, increasing their resiliency to some sea-level rise impacts. The fixed features like the pilings may need to be raised or reinforced to withstand future conditions.

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More locally-based knowledge of sea-level rise impacts and adaptation strategies will be available to Huntington Harbour residents and marinas as a result of the ongoing efforts to update the City of Huntington Beach's Local Coastal Program and General Plan, and through the city's Coastal Resiliency Task Force. Regular maintenance, as required by the terms of the lease, will reduce the likelihood of severe structural degradation or dislodgement.

Conclusion:

For all the reasons above, staff believes the proposed amendment will not substantially interfere with the Public Trust needs at this time and at this location or change the authorized uses within the lease premises. Commission staff believes the issuance of this lease amendment is consistent with the common law Public Trust Doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Consideration for the lease was originally based upon an area of 2.07 acres. The total lease area included an additional 0.51 acre for dredging and protected eelgrass area, with consideration for these areas being the Public Benefit. The lease area should have been stated as 2.58 acres in total.
2. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
3. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt. The project is exempt under Class 4, Minor Alteration to Land; California Code of Regulations, title 2, section 2905.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, sections 15300 and California Code of Regulations, title 2, section 2905.

4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff's consultation with persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with the classification.

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APPROVALS OBTAINED:

California Coastal Commission
Santa Ana Regional Water Quality Control Board

FURTHER APPROVALS REQUIRED:

U.S. Army Corps of Engineers

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 4, Minor Alteration to Land; California Code of Regulations, title 2, section 2905, subdivision (d)(4).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed amendment of Lease No. PRC 7304.1 will not substantially impair public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

1. Authorize the correction of the lease area from 2.07 acres to 2.58 acres.
2. Authorize the amendment of Lease No. PRC 7304.1, a General Lease – Other, effective April 20, 2017, to approve the proposed temporary expansion of the lease area by 0.16 acre for a one-time maintenance dredging operation; to eliminate the increased area (Parcel 2) immediately after the one-time dredging operation is complete; and to replace the existing Exhibit A, Land Description, and Exhibit B, Site and Location Map, with the attached Exhibit A, Land Description, and Exhibit B, Site and Location Map (for reference purposes only).

EXHIBIT A-1

PRC 7304.1

LAND DESCRIPTION

A parcel of submerged land in Huntington Harbour and Bolsa Chica Channels in the City of Huntington Beach, County of Orange, State of California, more particularly described as follows:

BEGINNING at the most southerly corner of Lot "H", as said Lot is shown and so designated on that certain map of Tract No. 11716 recorded in Book 537 at Pages 17-19 Miscellaneous Maps, in the office of the County Recorder of said County; thence along the southwesterly extension of the southeasterly line of said Lot 80.00 feet; thence leaving said line northwesterly along the line parallel with the southwesterly line of said Lot and northwesterly extension thereof 391.46 feet; thence leaving said line North 39° 28' 51" West 192.00 feet to a line parallel with the northwesterly line and southwesterly extension thereof of said Lot; thence northeasterly along said line 392.71 feet; thence leaving said line South 39° 29' 07" East 215.00 feet to the northeasterly extension of the northwesterly line of said Lot; thence southwesterly along said line 300.00 feet to the most westerly corner of said Lot; thence southeasterly along southwesterly line of said Lot 337.60 feet to the POINT OF BEGINNING.

END OF DESCRIPTION

Prepared 03/17/17 by the California State Lands Commission Boundary Unit



EXHIBIT A-2

PRC 7304.1

LAND DESCRIPTION

A parcel of submerged land in Huntington Harbour and Bolsa Chica Channels in the City of Huntington Beach, County of Orange, State of California, more particularly described as follows:

COMMENCING at the most southerly corner of Lot "H", as said Lot is shown and so designated on that certain map of Tract No. 11716 recorded in Book 537 at Pages 17-19 Miscellaneous Maps, in the office of the County Recorder of said County; thence along the southwesterly extension of the southeasterly line of said Lot 80.00 feet; thence leaving said line northwesterly along the line parallel with the southwesterly line of said Lot and northwesterly extension thereof 391.46 feet to the POINT OF BEGINING; thence continue along said line 204.83 feet to a line parallel with the northwesterly line and southwesterly extension thereof of said Lot; thence northeasterly along said line 71.38 feet; thence leaving said line South 39° 28' 51" East 192.00 feet to the POINT OF BEGINNING.

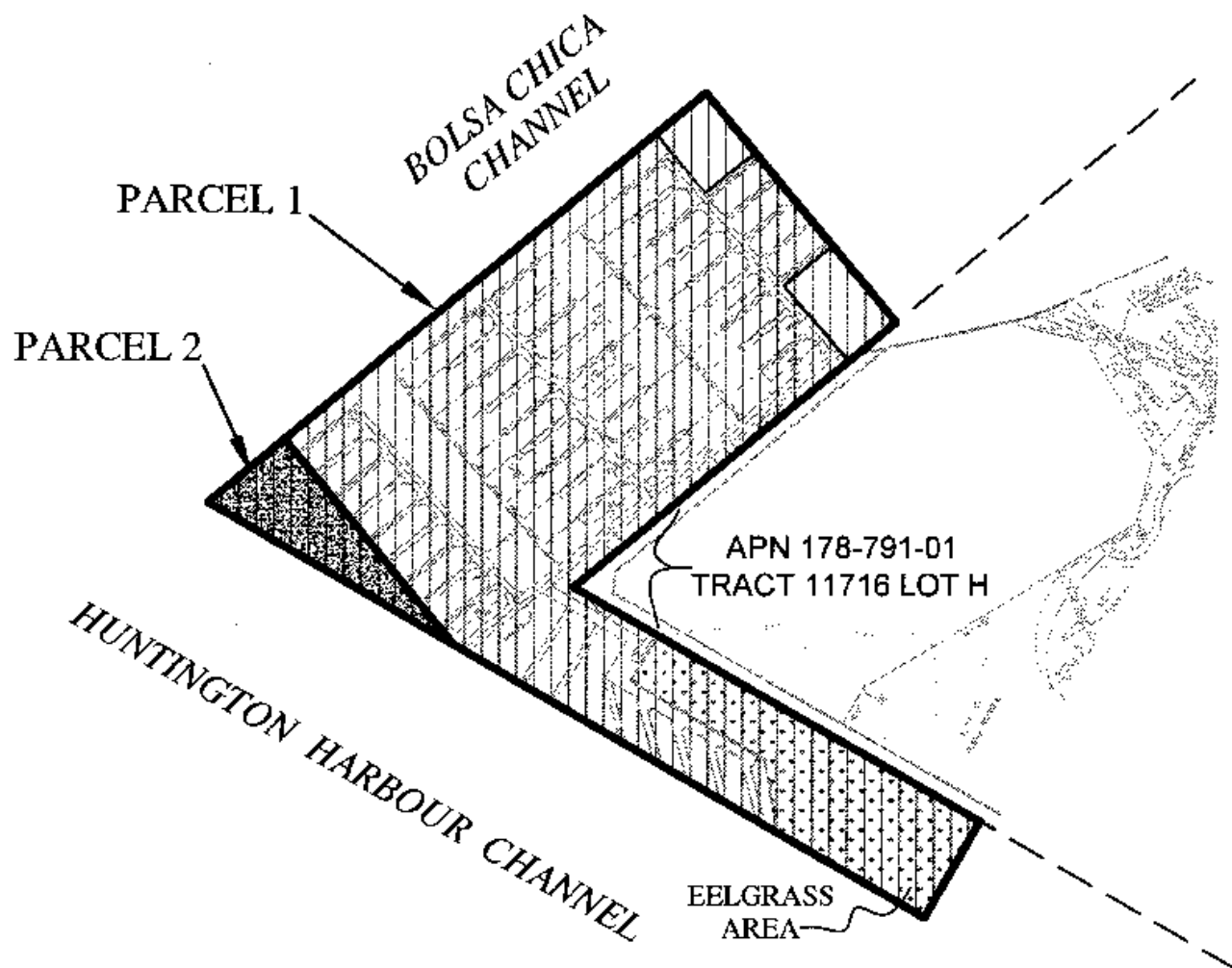
END OF DESCRIPTION

Prepared 03/17/17 by the California State Lands Commission Boundary Unit



NO SCALE

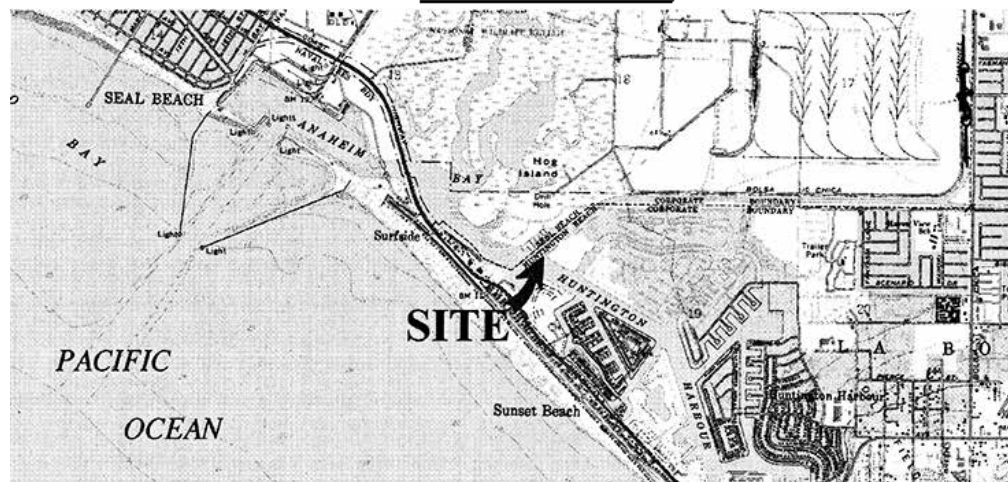
SITE



16291 COUNTESS DRIVE, HUNTINGTON BEACH

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

PRC 7304.1
PORTOFINO COVE
YACHT HOA
APN 178-791-01
GENERAL LEASE -
OTHER USE
ORANGE COUNTY



TS 03/17/17